

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Bay County Abstract Inc., d/b/a Empire Title
d/b/a Thumb Area Abstract & Title, Inc.
System ID No. 0013602

Enforcement Case No. 07-5372

Respondent

Issued and entered
on 9/29, 2010
by Stephen R. Hilker
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times pertinent to the matter herein, Bay County Abstract, Inc. d/b/a Empire Title d/b/a Thumb Area Abstract & Title, Inc. (Respondent) was a licensed insurance agency authorized to conduct the business of insurance in this state.
2. As a licensed insurance producer, Respondent knew or had reason to know that Section 1207(1) of the Insurance Code (Code), MCL 500.1207(1), provides in pertinent part that, "An agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility."
3. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), provides that, "The commissioner may place on probation, suspend, revoke ... an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for ... [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."


4. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), provides that, "The commissioner may place on probation, suspend, revoke ... an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for ... [i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
5. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that, "The commissioner may place on probation, suspend, revoke ... an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for ... [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
6. On April 20, 2007, the Office of Financial and Insurance Regulation (OFIR) received a complaint from Old Republic National Title Insurance Company (Old Republic), alleging that the Respondent failed to remit premiums in excess of \$160,000 to Old Republic.
7. In a letter to OFIR dated April 27, 2007, Respondent acknowledged that it owed Old Republic in excess of \$160,000 in premiums.
8. In the agency agreement between Respondent and Old Republic, Respondent agreed to keep all premiums collected on behalf of Old Republic in an escrow account separate from its operating accounts.
9. Respondent never established a separate escrow account for premiums it collected on behalf of Old Republic.
10. In May 2006, Old Republic conducted an audit of the Respondent that showed that Respondent had failed to properly remit \$85,000 in premiums. In July 2006, Respondent remitted \$50,000 in premiums.
11. In December 2006, Old Republic uncovered additional premiums in excess of \$160,000 that had been collected, but not remitted, by Respondent. This amount has never been paid to Old Republic.
12. Based on the foregoing conduct, Respondent violated Sections 1207(1) and 1239(1) of the Code. Respondent is therefore subject to fines, suspension, and/or license revocation pursuant to Sections 1239 and 1244 of the Code.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is **ORDERED** that:

1. Respondent shall CEASE and DESIST from violating MCL 500.1239(1) and MCL 500.1207(1).

2. Forthwith, Respondent shall CEASE and DESIST from engaging in any activity requiring licensure under the Michigan Insurance Code and deliver to the Chief Deputy Commissioner, its original resident producer license certificate within five days of the date of entry of this Order.
3. Respondent's resident producer license issued pursuant to the provisions of the Michigan Insurance Code is hereby **REVOKED**.



Stephen R. Hilker
Chief Deputy Commissioner

Dated: 9/24/16

C. STIPULATION

Respondent has read and understands the consent order above. Respondent agrees that the Chief Deputy Commissioner has jurisdiction and authority to issue this consent order pursuant to the Michigan Insurance Code. Respondent waives the right to a hearing in this matter if this consent order is issued. Respondent understands that this stipulation and consent order will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this consent order. Respondent waives any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. Respondent agrees to abide by the above consent order. Respondent admits to the Findings of Fact and Conclusions of Law set forth above and consents to the entry of this order.

Bay County Abstract Inc., d/b/a Empire Title
d/b/a Thumb Area Abstract & Title, Inc.

Dated: 9-8-2010

By: James D. Lippold
Its: James D. Lippold
(FORMER) President

The Office of Financial and Insurance Regulation staff approves this stipulation and recommends that the Chief Deputy Commissioner issue the above Consent Order.

Dated: 9/14/2010

Marlon F. Roberts
Marlon F. Roberts
Staff Attorney